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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/618,596	07/17/2000	Robert A. Macina	DEX-0075	8607
75	590 01/24/2003			
Kathleen A. Tyrell			EXAMINER	
Law Offices Of Jane Massey Licata 66 E Main Street Marlton, NJ 08053			HARRIS, ALANA M	
			ART UNIT	PAPER NUMBER
			1642	4 2
			DATE MAILED: 01/24/2003	23

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No. Applicant(s) Applicant(s) Applicant(s) Applicant(s) Action Summary Action Summar								
## Examiner Alana M. Harris, Ph.D. 1642 - The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Extraction of time may be available under the positione of 37 CPR 1.35(a), in no event, however, may a raphy be timely filled. - If the period for prity psecified above, the nearcrun statutory priented will apply and will explore in their, (30) apps well be considered timely. - If NO period for ringly is applied above, the nearcrun statutory priented will apply and will explore ISK (0) MONTHS from the mailing date of this communication. - If NO period for ringly is period above, the nearcrun statutory priented will apply and will explore ISK (0) MONTHS from the mailing date of this communication. - If NO period for ringly is period above, the nearcrun statutory priented will apply and will explore ISK (0) MONTHS from the mailing date of this communication. - Any reply record by the Office interes have the mailing date of this communication, even if timely filled, may reduce a my common patient term adjustment. Sea 37 CPR 1.704(b). **Status** 1)		Application No.	Applicant(s)					
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	2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) Notice of Informal						

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Art Unit: 1642

DETAILED ACTION

Response to Arguments

1. Claims 1-5 are pending.

Claims 1-5 have been amended.

Claims 1-5 are examined on the merits.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Withdrawn Rejections

Claim Rejections - 35 USC § 112

3. The rejection of claims 1-5 based upon the recitation "complement' under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention is withdrawn in light of Applicants' amendment to the claims.

Claim Rejections - 35 USC § 102

- 4. The rejection of claims 1-5 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Number 5,733,748 (filed June 6, 1995) is withdrawn.
- 5. The rejection of claims 1-5 under 35 U.S.C. 102(b) as being anticipated by WO 96/39419 (Document AD on IDS) is withdrawn.

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Maintained Rejection

Claim Rejections - 35 USC § 112

6. The rejection of claims 1-5 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention is maintained.

a. The recitation "hybridizing under stringent conditions" in claims 1-5 is vague and indefinite. The metes and bounds are unclear in the absence of limitations specifying specific stringency conditions.

Applicants argue that "...the requirement of definiteness of claim language is to ensure that the scope of the claimed is clear so that the public is informed of the boundaries of what constitutes infringement..." Applicants list three requirements in which the definiteness of claim language must be analyzed. In support of Applicants' arguments they have submitted definitions for the term hybridization stringency. These arguments and submissions have been considered but found unpersuasive.

Applicants have yet to pointedly express where within *their* disclosure the recitation "hybridizing under stringent conditions" is defined and the conditions encompassed the recitation. Applicants' specification does not set forth the necessary criteria to implement the claimed invention. Absent clear and definite limitations regarding the stringency conditions the metes and bounds continue to be unclear.

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Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alana M. Harris, Ph.D. whose telephone number is (703) 306-5880. The examiner can normally be reached on 6:30 am to 4:00 pm, with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Caputa, Ph.D. can be reached on (703) 308-3995. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4315 for regular communications and (703) 308-4315 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0196.

Alana M. Harris, Ph.D. January 21, 2003

YVONNE EYLER, PH.D SUPERVISORY PATENT EXAMINER TECHNOLOGY CENTER 1600